

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION  
DWIGHT NICHOLS, \*  
Petitioner, \*  
vs. \*  
CASE NO. 4:12-CV-52 (CDL)  
GREGORY McLAUGHLIN, \*  
Respondent. \*

ORDER ON REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE

After a *de novo* review of the record in this case, the Report and Recommendation filed by the United States Magistrate Judge on July 21, 2012, recommending dismissal of Petitioner's Petition as untimely, is hereby approved, adopted, and made the Order of the Court with one exception as noted below.

The objections of the Petitioner have been considered and are found to be without merit. The objection of Respondent, which does not affect the ultimate disposition of this matter, has been considered and is sustained. Respondent is correct that the "mail box rule" applied by the Magistrate in his Report and Recommendation has not been adopted by the Georgia Courts under the circumstances presented here. Accordingly, that part of the Magistrate's analysis is incorrect. However, this error does not change the fact that Petitioner's claim is untimely and must be dismissed.

IT IS SO ORDERED, this 23rd day of August, 2012.

s/Clay D. Land  
CLAY D. LAND  
UNITED STATES DISTRICT JUDGE